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EXCISE

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ACTION ARA-22
 INFO LOG-20 COPY-21 ADS-20 INR-12 SS-20 CIAE-22 ICIF-22
 H-21 NSCF-00 NSAL-20 SSO-20 HA-09 L-23 IM-12
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 IRS-01 LS-01 DSE-00 /048 W

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O 252152Z JUL 86
 FM AMEMBASSY LIMA
 TO SFCSTATF WASHDC IMMEDIATEF 3275
 INFO AMEMBASSY BOGOTA
 AMEMBASSY LA PAZ
 AMEMBASSY QUITO
 USAFPO HOWARD AFB PM
 USCINCSO QUARRY HTS PM
 DIAEQS WASHDC
 C C N F I D E N T I A L LIMA 8859

DEPARTMENT OF STATE A/CDC/MR OCT 3 1988
 REVIEWED by Pugh DATE _____
 RELEASE DECLASSIFY
 EXCISE DECLASSIFY in PART
 DENY Non-responsive info.
 FOI, EO or PA exemptions (b)(7)(C)
 TS authority to:
 CLASSIFY as _____, OADR
 DOWNGRADE TS to () S or () C, OADR

E.O. 12356: DECL: OADR
 TAGS: PEUM, PTER, PGCV, PINS, PE
 SUBJECT: PERUVIAN JUDGE OPENS CASE AGAINST GENERAL
 OVER PRISON DEATHS

1. (U) THE PERUVIAN JUDICIAL SYSTEM HAS BEGUN TO INVESTIGATE CHARGES OF EXCESSES COMMITTED DURING GOP'S RESPONSE TO THE JUNE 12 PRISON RIOTS. DISOBEYING GENERAL GUIDELINES FROM THE FISCAL GENERAL (ATTORNEY GENERAL), A PROSECUTING ATTORNEY (FISCAL ADJUNTO) FILED CHARGES ON JULY 16 AGAINST ARMY GENERAL TORGE RABANAL IN CHARGE OF RETAINING LURIGANCHO PRISON FOR THE DEATHS OF 128 INMATES. ON JULY 23, LIMA JUDGE SAIBURCO VERGARA RESPONDED BY OPENING A CASE AGAINST RABANAL, AND ORDERING THE LATTER'S DETENTION FOR PRELIMINARY EXAMINATION. VERGARA LATER INDICATED HE EXPECTED RABANAL TO APPEAR VOLUNTARILY TO TESTIFY. IN CONNECTION WITH THIS CASE, VERGARA ALSO ORDERED THE

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 APPEARANCE OF EX-JUSTICE MINISTER LUIS GONZALES LOSADA, EX-PRISON DIRECTOR MIGUEL ACUEROLO, EX-GUARDIA REPUBLICANA DIRECTOR GENERAL MAXIMO

MARTINEZ, AND A NUMBER OF PRISON GUARDS AT LURIGANCHO WHO MAY HAVE WITNESSED SUMMARY EXECUTIONS OF PRISONERS. IN ADDITION, VERGARA ANNOUNCED HE AWAITED A PRISONS INSTITUTE LIST OF THE LOCATIONS OF PRISONERS' BODIES (REPORTEDLY BURIED IN SEVERAL CEMETERIES BY THE MILITARY) SO HE COULD ORDER THE EXHUMATION OF THE BODIES.

2. (U) WAR MINISTER FLORES STATED JULY 24 THAT HE HAD NOT RECEIVED ANY OFFICIAL NOTIFICATION OF THE CHARGES AGAINST RABANAL. HE REMARKED THAT THE ARMED FORCES

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WERE "RESPECTFUL OF THE JUDICIARY'S DECISIONS".
BUT NOTED THAT IN THIS CASE THE MILITARY BELIEVED
THAT RAJANAL SHOULD BE TRIED BY A MILITARY RATHER THAN
A CIVILIAN COURT.

3. CC) COMMENT: 

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↓ SUPREME COURT
HAS FINAL SAY ON WHETHER CASE WILL BE HANDLED BY
MILITARY OR CIVILIAN COURTS. PRECEDENTS EXIST
FOR EITHER VENUE, BUT RECENT TREND HAS BEEN TOWARD
MILITARY TRIALS. THERE HAS BEEN A SPIRITED DEBATE
ON THIS LEGAL QUESTION FOR SEVERAL YEARS; THE ARMED
FORCES FEEL VERY STRONGLY THAT THEIR PEOPLE SHOULD
NOT BE TRIED BY CIVILIANS. THIS CASE HAS STRONG
POLITICAL OVERTONES, WITH POTENTIAL FOR FURTHER
CIVILIAN-MILITARY DISPUTES. YOULE
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